



Kosciusko, August 19, 1843.

WE are authorized to announce THOMAS BOWDEN as a candidate for the Office of Clerk of the Circuit Court at the ensuing November election.

## BOYDS REPORT Addenda—to G. D.

A year and a half has passed by since the foregoing was written, and the writer so far from having seen any thing since to change his opinion, has been the more strengthened in it by each new reflection which he has bestowed upon the subject, and it is most certainly true that each new discovery of facts and circumstances which have come to light since that time is well calculated to strengthen him in his position.

At the time the foregoing report was made it produced such a sensation in the Representative hall as to startle many of the anti bonders, and to cause them to look with apparent horror from the frightful abyss to which they conceived I had lead them. It was only by a very small majority that the report was received by the house, where the anti bonders were largely in the majority. After it was received however, there was less difficulty in ordering it to be printed, as the motion to print was made by a gentleman in the opposition, who paid me the compliment to say that his opposition to it was because it was an anti bond document, but that now it had been received, he conceived it to be as well worth printing as any thing on that side of the question which he had seen. At that time I knew but three members of the Legislature who were willing to subscribe to the sentiments therein advanced.

But the case is quite different now.—Not only have we a large number of members of the Legislature, but the number of anti bonders against both the Planters' & Union Bank have still more greatly increased among the people.

My views of the doctrine of anti bondism is that it is good for the whole amount, or it is good for nothing. That is, I mean to say it will as well apply to the Planters' Bank bonds, or any other such pretended debts of the State which were not created for the legitimate and necessary purposes of government, which is, according to the language of our declaration of independence "to secure us in life liberty and the pursuit of happiness." But there are many who say that they are opposed to the payment of the Union Bank bonds, because they were in violation of the constitution, and they are in favour of the payment of the Planters' Bank bonds, because they are recognized by the constitution.

Those who sincerely entertain this opinion, surely cannot have given the subject a proper examination. Upon the abstract question of constitutionality, if such a degree of comparison were allowable, I would say that the Planters' Bank bonds were created in a more unconstitutional manner than even the Union Bank bonds. Let us examine the facts in relation to this subject. The constitution of 1817 under which the State was admitted into the Union has the following provision Art 6 Sec 9 "No Bank shall be incorporated by the Legislature without reservation of the right to subscribe for, in behalf of the State, at least one fourth part of the capital stock thereof, and the appointment of a proportion of the directors, equal to the stock subscribed for." At the time of the adoption of the constitution the 'Bank of Mississippi' incorporated by the territorial act of 1809 to continue until 1835 was in existence, with a capital of half a million of dollars & located in Natchez. In 1818, shortly after the adoption of this constitution, a supplementary act was passed changing it to the name of the Bank of the State of Mississippi, & authorizing branches to be located and subscription books to be opened at the towns of Port Gibson & Vicksburg for 500 shares in each place, and authorizing the Governor to subscribe on the part of the State as prescribed by the constitution, for one fourth part of the whole amount of the State stock of said Bank. And to induce persons to subscribe and invest their money, the 16 section of said supplementary charter provides and says, "no other Bank shall be established by any future law of this State, during the continuance of the aforesaid corporation, FOR WHICH THE FAITH OF THE STATE IS HEREBY PLEDGED." This amended charter was accepted, & the additional stock taken and the branches located and went on as well perhaps as it is the

February in the year 1830, when the Planters' Bank was incorporated with the following beautiful preamble giving the reasons why &c; "Whereas the establishment of a bank in the State of Mississippi for the purpose of general convenience and public revenue would, on the one hand by a judiciary increase of the circulating medium, give impulse & vigour to agricultural labour, activity to commercial enterprise, increased value to our lands, and on the other, by a creation of revenue relieve the citizens of the State from an oppressive burthen of taxes, and enable them to realize the blessings of a correct system of internal improvement, therefore be it enacted" &c.

As the constitution used the word Bank in the singular, the opinion would naturally suggest itself to the mind of any one, that the constitution did not authorize the creation of but one bank, and this opinion would naturally be very much strengthened from the fact that the next year after the adoption of that constitution, the legislature entertained that same opinion, from the circumstance of their pledging the faith of the State that no other bank should be created during the existence of that bank; and it appears that the people of the State had acquiesced in that opinion from 1818 until 1830; and as some contend that the apparent acquiescence of the people of the State in the Planters' Bank charter and sale of bonds under the charter makes it constitutional, or places an obligation on them to pay the bonds which is above the constitution itself, we can fairly offset this argument by the fact that the people of the State for the same length of time acquiesced in the charter of the Bank of the State of Mississippi which made the creation of the Planters' Bank unconstitutional.—The whole amount of this argument if correct then leads to this conclusion that the Planters' Bank has been, by the neglect of the people to declare it otherwise, made constitutional from 1830 until 1842, while from the same cause the creation of that bank was made unconstitutional from 1818 until 1830 just the same length of time viz 12 years. If then 12 years of time will harden a thing into a constitutional fact, the circumstance of the Planters' bank having during the first 12 years been made an unconstitutional thing, it would require the last 12 years to change its nature so much as to make it what it was when the experimenting first commenced, and it will take 12 years more to make it constitutional by this process. When the Planters' Bank was first chartered the President & directors & stock holders of the Bank of Mississippi took the opinions of able counsel upon it, & that they might be sure of getting a correct legal opinion they employed able counsel of each political party. They took the opinions of Robert J. Walker, Daniel Webster & Horace Binney who all concurred in the opinion that the charter of the Planters' Bank was unconstitutional, and gave written opinions to that effect.

But Governor Tucker in his late message says that the 9th section of the 7 article of the existing constitution "recognizes in the most palpable manner the legal existence of the charter of the Planters' Bank as a law then in force" and further that it "in effect re-enacted the charter and removed all objections which had existed by reason of its non conformity to the provisions of the old constitution," and quotes further in support of his opinion the 4th section of the schedule to the constitution which says "All laws now in force in this State, not repugnant to this constitution, shall continue to operate until they shall expire by their own limitation, or be altered or repealed by the Legislature."—But Governor Tucker constitutional as he is, seems in this instance to have overlooked one little item in the constitution which it is important to keep in mind, in order to be correctly enabled to ascertain what was the true meaning and intent of the constitution in relation to this Planters' Bank. It is the 1st Sec of the schedule, which says, "All rights vested, and all liabilities incurred, shall remain the same as if this constitution had not been adopted." Here then we get at the true intent of the framers of the constitution & what it was that they intended to say and do, and that is, that they intended to leave the whole subject of the Planters' Bank in relation to her right of charter, or right of selling bonds just where they found it, that is with just such legal rights and disabilities as it would have had if that constitution had never been adopted. To come to any other conclusion, or to indulge in any other supposition, would be doing gross injustice to the intelligent body of men who composed that convention.

But admit for the sake of argument that Gov. Tucker is correct in saying that "it is certain beyond doubt that the

Planters' Bank charter as a law then in force and continued the same."—What does it prove? Why surely nothing more than that the then existing Planters' Bank charter was a law then in force & is continued in force by operation of the constitution. Let us then examine what that Planters' Bank charter then was. The only acts of incorporation which were then in force were the act of Feb. 10, 1830, & the supplemental acts of Dec. 16, 1830 & Dec 9, 1831. The Bank was created with a capital of \$3,000,000. Two millions of this amount to be owned by the State, and one million by individuals. The Capital was also subject to be further increased by investment in bank stock of the accruing 3 per cent fund, and of the fines and forfeitures collected for the State. By the 12th section of the act of February 10 1830 the institution was to be managed and controlled by a board of 13 Directors, seven of these Directors were to be appointed by the Governor by and with the advice and consent of the Senate, and six of them were to be elected by the stockholders & the charter to continue until March 1, 1855. The 2d Sec. of the act of Feb. 10, 1830 & the 2d Sec. of that of Dec. 9 1831, makes the State and private stock holders liable to the amount of the stock respectively held by each, to make good any loss which the bank may sustain from any cause. These are the provisions which for our purpose it is most important to notice, and had the money been borrowed and the faith of the State been pledged to repay this loan, and the money been invested in that Planters' bank the charter of which was in existence at the time of the adoption of the new constitution, & which Gov. Tucker says was recognized by the constitution, why then there might have been some plausibility for calling the bank a constitutional bank, and the loan a constitutional loan, but it so happened that after the constitution of 1832 intervened and before these one million and a half of bonds were sold the Planters' Bank charter was materially changed in these essential provisions.

The act of Feb. 5th 1833 under which they were issued and sold increases the private stock of the bank an additional million of dollars (see 15th sec. of said act) and gives to the stock holders the right of electing seven of the Directors, and the State the right of appointing six directors only; thereby changing it from a State institution into a private stock institution, or in other words giving the private stock holders a majority of the Directors, instead of the State having a majority of the directors. (See sections 1, 2 & 3 of said act.) The 10th section of said act, extends the time of the charter 15 years longer, that is from 1855 to 1870. If this is the same Planters' Bank which Gov. Tucker informs us is recognized by the new constitution, it must be so upon the principle which the boy avered that his pocket knife was the identical same one which his grandfather used to own, although he admitted that it had had three new blades and two new handles since his grandfathers time; and if the bare retaining the name establishes the identity, as it did in the case of the boy's knife, then most certainly "beyond doubt" as Gov. Tucker would say, the Union Bank bonds are also constitutional, that institution never having changed its name, nor never having been changed in its character in the same essential manner which the Planters' Bank has been.

But I will conclude this branch of the subject by using a bond payers argument, and shewing that both the Planter Bank and Union Bank bonds are unconstitutional according to their own argument. If there is any good reason why either of these class of bonds should be paid, to be found either within the constitution, or without the constitution that good reason must also prove that if they should be paid they should be paid quickly too. That good reason (if any such can exist,) must show that the obligation is strongest upon the people who were the immediate recipients of the money, and that they are those who ought to have paid it: or in other words, that the people of 1831 and 1833, ought to have paid the Planters' Bank bonds, and the people of 1833, ought to have paid off the Union Bank bonds, and if these failed, the obligation is next highest upon the people of each succeeding year, and becomes less and less as time rolls on. But these bond payers are almost universally against taxing the people to pay these bonds, and also claim that we are not bound by the law of nations to oppress ourselves by onerous taxation or burthens to pay them at all. If this apology or reason is well founded, then they are unconstitutional by the constitution itself.—The first section of the declaration of rights in our constitution says "That all freemen when they form a social com-

or set of men, are entitled to exclusive, separate public emoluments or privileges from the community, but in consideration of public services." And the second section says "That all political power is inherent in the people, and all free governments are founded on their authority and established for their benefit; and, therefore, they have at all times an unalienable and indefeasible right to alter or abolish their form of Government in such manner as they may think expedient." And the concluding article of every thing in this article is excepted, and shall forever remain inviolate; and that all laws contrary thereto shall be null and void. Suppose then as now case by every body, that this bond selling and state faith pledging business is not for the benefit of the people, and that it is not calculated to secure them in their unalienable right of "life liberty and the pursuit of happiness." Query have not the people by the first & second section of their declaration of rights, a right to repudiate all such bonds, even if they had been created strictly according to the provisions of the 9th sec. of the 7th article of the constitution where they were not created for the legitimate and necessary purposes of government? But the rights of the people as set forth in the declaration of rights in the constitution, are not derived to the people from a grant of the convention who made that constitution. They existed with the people before the assembling of that convention, and would have existed with them if the constitution had not contained them.—They are derived from the act of the declaration of Independence made on the 4th day of July 1776. They exist in the very nature of things in a country where freedom exists, and it is only in tyrannical countries, and amongst these who advocate the principles of tyranny that they are denied. These Planters' Bank bonds contain within themselves more of the principles of tyranny and of despotism than is to be found in the actions and doings of the most tyrannical countries in Europe. The British Government & other despotic borrowing governments, when they borrow do not undertake to promise that posterity will pay the principal of the loan, but only interest upon it. But our Planters' Bank bonds called constitutional, by Gov. constitutional Tucker, are to be paid principal and interest by posterity.—That is, posterity in 1861 is to pay \$500,000 of them, posterity in 1866 is to pay \$500,000 of them & posterity in 1871 is to pay \$500,000 of them!

In the name of common sense, in the name of common honesty, in the name of every principle which was held dear and sacred by our forefathers who achieved our independence, in the name of despotism and Tyranny itself, what right had the people of Mississippi in 1830 or in 1833 to contract a debt, not to carry on the legitimate purposes of Government, but for the purposes of banking, and living in luxury and dissipation, to create a debt and tell posterity of 1861, 1866, & 1871 they must pay it? If a majority the good people of this State can find either in or out of the Constitution any good and sufficient reasons to convince them that the State ought to pay these Planters' bank bonds, I do hope and trust they will pay the Union Bank bonds also, for I can see no distinction between them, except that the constitution was not so badly trampled upon, nor was principle so much violated in the case of the Union Bank bonds as it was in that of the Planters' bank bonds; & I do hope that these who sustained the resolution in the Legislature in 1841 to pay both bonds, and those who sustained the resolution of the Legislature in 1842 to pay the Planters' Bank bonds, & the Governor who says in his message in 1843 that the Planters' Bank bonds ought to be paid, and the members of the anti-repudiating clubs which have passed so many beautiful & well sketched honor and dignity resolutions, will show their sincerity & propose means of paying them by immediate taxation, for they never can be paid in any other way. They may cheat the bond holders out of them, and call that payment; but to get the money to pay them in reality can only be done by taxation, and the sooner the better.—If the bonds are a debt which impose upon our citizens the same obligation to pay them as our private debts do as is contended for by some of our bond payers, then the whole seven or eight millions ought to be paid in two or three years, for although the payment of them would no doubt be sorely felt, yet that amount can be paid by the State of Mississippi in that length of time, without reducing ourselves to even the ordinary condition of the mass of the people